

REMARKS

The present amendment is submitted in response to the Office Action dated August 26, 2004, which set a three-month period for response, making this amendment due by November 26, 2004.

Claims 1-11 are pending in this application.

In the Office Action, claim 7 and the specification were objected to for informalities. Claims 1-8 and 10 were rejected under 35 U.S.C. 103(a) being unpatentable over U.S. Patent No. 6,718,179 to Forssell in view of U.S. Patent No. 6,466,795 to Ahn. Claims 9 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Forssell and Ahn and further in view of U.S. Patent No. 6,374,112 to Widegren et al.

In the present amendment, the specification has been amended to add standard sectional headings and to delete reference to the claims. The abstract has been amended to delete claim-type language and reference to Fig. 1; however, with regard to the Examiner's objection, the abstract was presented in the form of a single paragraph, as filed. The Applicants are unclear as the grounds for the objection stated in the Office Action.

Claim 7 has been amended to address the stated objection.

Claim 1 was amended to correct a minor translation error in the third paragraph.

Turning now to the substantive rejections of the claims, the Applicants respectfully disagree that the cited reference combinations make obvious the

subject matter of the present invention. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. *In re Fritch*, 23 USPQ 2d 1780, 1783-84 (Fed. Cir. 1992).

The patent to Forssell discloses a method for adjustment of a continuous communication connection after termination of a communication connection between a send station and a receiving station in a communication system. The communication connections take place on allocated communication resources, which are associated temporarily with these communication connections. The termination of a communication connection is indicated by means of a communication resource, which is associated to the terminated communication connection. The requirements for a continuation of the communication connection, likewise, are indicated by means of an allocated communication resource.

With the subject matter of Forssell, the mobile station starts a timer when it recognizes an end of the data transmission. In this manner, the mobile station does not know at this point in time whether further data packages should be transmitted to the mobile station. The network, in turn, knows that as long as the timer runs in the mobile station, the previously assigned channels for the transmission of messages to the mobile station can be used. Still during the running time, then, the network gives up the old communication channel and assigns resources for a new communication channel. Via the allocation of the new communication channel, instead of a reassignment of the old resources, the

network informs the mobile station. As a result, the mobile station considers the mobile station of the prior communication channel as abandoned and the new communication channel as assigned. The timer, then, is reset. The transmission of further data packages can then take place via the newly defined transmission channel. A so-called TBF controller functions as a control device with the subject matter of the Forssel reference, which gives up the old communication channel for the assignment of a new communication channel, depending on the requirements of the network, and assigns a new communication channel (column 9, lines 32-52 of Forssel).

The subject matter of Forssel differs markedly from the subject matter of claims 1 and 7 of the present application. First, Forssel fails to disclose that the controller device, with a first connection setup, in addition to the allocation of resources of the air interface to the sending device, also prepares a specific configuration of the sending device. In addition, with the Forssel device, the TBF controller is merely provided for the allocation of resources; that is, it is responsible for transmission channels and not for the configuration of the sending device. This is true not only for the TBF controller 605 of the radio apparatus (column 9, lines 32-52), but also for the TBF controller 704 of the base station (column 9, line 62 through column 10, line 6).

A further essential difference between the subject matter of claims 1 and 7 of the present application and that of the Forssel device is that with the present invention, an identification message (7) is sent from the controller device (31) to the data transmitter (1) in the additional call setup, to call up the resource

occupation and configuration of the data transmitter (1), stored in the memory device (10), for a new allocation thereof in the additional call setup. For the further connection setup, the stored resource allocations and configuration of the sending device are newly used, as they are used with a first connection setup.

Forssel, however, discloses that after termination of a first connection in the case of the request for an allocation, this first connection is allocated to a new communication channel ("new TBF" or "continued TBF"). Thus, with the subject matter of Forssel, in contrast to the subject matter of claims 1 and 7, the resource allocation and the configuration of the sending device from a first connection setup are neither stored nor used for a further connection (see, in particular, Figure 5 and the allocation of the RLC data transmission at the time point 501 after the allocation of the new communication channel at time point 509 or 510). Thus, Forssel leads the practitioner away from the subject matter of claim 1.

The Ahn reference relates generally to a method for allocation of resources between an end apparatus and a base station, independent of whether the resources for a previously terminated connection was used within a predetermined time frame. Also, Ahn, in contrast to claims 1 and 7 of the present application, does not disclose the construction of a predetermined configuration of the sending device by means of a controller device with a first connection setup, which precedes the further connection setup. The use of the stored configuration of the sending device for a further connection setup according to claims 1 and 7, therefore, likewise is not provided or suggested by Ahn.

Since in Ahn, the stored resource information does not originate from a terminated connection lying within a predetermined, prior time, also Ahn fails to disclose the feature of claims 1 and 7, whereby such stored resource information is used for a further connection setup.

Therefore, the combination of Forssell and Ahn does not suggest the present invention as defined in claims 1 and 7 to the practitioner. It is respectfully submitted that since the prior art does not suggest the desirability of the claimed invention, such art cannot establish a prima facie case of obviousness as clearly set forth in **MPEP section 2143.01**. Please note also that the modification proposed by the Examiner would change the principle of operation of the prior art, so that also for this reason the references are not sufficient to render the claims prima facie obvious (see the last paragraph of the aforementioned **MPEP section 2143.01**).

Claims 1 and 7 recite features that neither of these references even suggests, namely, sending an Identification message (7) from the controller device (31) to the data transmitter (1) in the additional call setup, to call up the resource occupation and configuration of the data transmitter (1), stored in the memory device (10), for a new allocation thereof in the additional call setup.

In addition, none of the cited references disclose the configuration of the sending device by means of a controller device.

Because the cited combination of references fails to suggest to the practitioner the features of independent claims 1 and 7, the rejection under Section 103 must be withdrawn. Obviousness cannot be established by

combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under Section 103, teachings of references can be combined only if there is some suggestion or incentive to do so. *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 221 USPQ 929, 932, 933 (Fed. Cir. 1984). Here, the prior art of record fails to provide any such suggestion or incentive.

For the reasons set forth above, the Applicants respectfully submit that 1-11 are patentable over the cited art. The Applicants further request withdrawal of the rejections under 35 U.S.C. 103 and reconsideration of the claims as herein amended.

In light of the foregoing amendments and arguments in support of patentability, the Applicants respectfully submit that this application stands in condition for allowance. Action to this end is courteously solicited.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



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